

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:20-CV-411-RJC-DCK**

MICHAEL ALLEN, as Administrator for the)
Estate of Juventino Mata Hernandez,)

Plaintiff,)

v.)

USA HOIST COMPANY, INC.; CAROLINA)
ELEVATOR SERVICE, INC.; GILBANE)
BUILDING COMPANY; and GILBANE,)
INC.,)

Defendants.)

ORDER

THIS MATTER IS BEFORE THE COURT on the “State Of North Carolina Department Of Labor’s Motion For Reconsideration, Response To Plaintiff’s Motion To Produce, And For Entry Of A Protective Order” (Document No. 41) filed May 28, 2021. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, the undersigned will grant the motion in part as to the North Carolina Department of Labor’s motion for reconsideration and deny the motion in part without prejudice as to the North Carolina Department of Labor’s request for entry of a protective order “stopping further subpoenas or other requests [for] the production of the same documents.” (Document No. 41-1, p. 6).

The Court has reviewed the statute cited by the North Carolina Department of Labor (“Department of Labor”), and the undersigned agrees that the statute prohibits the Department of Labor from “releasing witness and complainant information to third parties or employers,” with one exception for provision of the unredacted file to the employer ten days before an enforcement

hearing. (Document No. 41-1, p. 5); see N.C. Gen. Stat. §§ 95-136(e), (e1). Plaintiff is therefore not entitled to receive unredacted copies of the inspection report.¹

IT IS, THEREFORE, ORDERED that the “State Of North Carolina Department Of Labor’s Motion For Reconsideration, Response To Plaintiff’s Motion To Produce, And For Entry Of A Protective Order” (Document No. 41) is **GRANTED in part** and **DENIED without prejudice in part**, as described herein. The Department of Labor is not required to produce the documents pursuant to its investigation into the death of Juventino Mata Hernandez on May 23, 2018, as directed by the Court’s previous Order of May 17, 2021. See (Document No. 38).

SO ORDERED.

Signed: June 21, 2021



David C. Keesler
United States Magistrate Judge



¹ The undersigned notes that Plaintiff failed to use the non-party subpoena process laid out in Fed.R.Civ.P. 45 in its pursuit of the unredacted copy of the North Carolina Department of Labor’s inspection report. Furthermore, the Court points out that the Plaintiff’s original “Motion For The Production Of Records From the North Carolina Department Of Labor And For Entry Of A Protective Order” (Document No. 36) failed to fully apprise the Court of the North Carolina Department of Labor’s statutory obligations with respect to such inspection reports.